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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DIEGO LUA-GARCIA,

Defendant.

CASE NO. 1:20-CR-00031-JLT-BAM

STIPULATION TO CONTINUE CHANGE OF
PLEA HEARING AND ORDER THEREON

Date: April 22, 2024
Time: 9:00 a.m.
Honorable Jennifer L. Thurston

STIPULATION

Plaintiff United States of America, by and through its counsel of record, and defendant, by and through defendant's counsel of record, hereby stipulate as follows:

1. By previous order this case was set for a change of plea hearing on April 22, 2024, before the Hon. Jennifer L. Thurston. The parties hereby agree to continue the change of plea hearing to July 1, 2024, at 9:00 a.m. before Hon. Jennifer L. Thurston, and exclude Speedy Trial time between April 22, 2024 and July 1, 2024.
2. Since the change of plea hearing was set, the government the parties have been engaged in plea negotiations. Those negotiations include provisions regarding the defendant's forfeiture of real property (or cash in place of real property interests). After protracted negotiations, the government provided the defense with a plea agreement, but the defense is in the process of reviewing that agreement and expects to propose some to the agreement. The parties need the additional time for the defense to complete its investigation, and for the government to review the defense's proposals as well as to potentially revise the plea agreement.

3. Defense counsel also requires the additional time to meet with his client and prepare for the change of plea hearing.

4. The proposed change of plea date represents the earliest date that all counsel are available for the change of plea, taking into account work that defense counsel needs to complete on the case, counsels' schedules, and the need for preparation in the case and further investigation.

5. An ends-of-justice delay is particularly apt in this case because the defendant is currently out on pretrial release.

The parties further believe that time should be excluded, in that failure to grant the requested case schedule would unreasonably deny the defendant continuity of counsel, and unreasonably deny the defendant and the government the reasonable time necessary for effective preparation, taking into account the parties' due diligence in prosecuting this case. 18 U.S.C. Section 3161(h)(7)(B)(iv). Based on the above-stated findings, the ends of justice served by the schedule as requested outweigh the interest of the public and the defendant in a trial within the original date prescribed by the Speedy Trial Act. Therefore, the parties request that the Court exclude the time from April 22, 2024 until the change of plea hearing on July 1, 2024, from calculations under the Speedy Trial Act.

IT IS SO STIPULATED.

Dated: April 11, 2024

PHILLIP A. TALBERT
United States Attorney

By: /s/ JUSTIN J. GILIO
JUSTIN J. GILIO
Assistant United States Attorney

Dated: April 11, 2024

/s/ Victor Perez
Attorney for Defendant
Diego Lua-Garcia

ORDER

IT IS HEREBY ORDERED that the change of plea hearing on April 22, 2024, is hereby continued to **July 1, 2024, at 9:00 a.m. before District Judge Jennifer L. Thurston.**

IT IS FURTHER ORDERED THAT the ends of justice served by the schedule set forth herein as requested outweigh the interest of the public and the defendants in a trial within the original date prescribed by the Speedy Trial Act for the reasons stated in the parties' stipulation. For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq., within which trial must commence, the time period of April 22, 2024, and July 1, 2024, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) because it results from a continuance granted by the Court at the parties' request on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.

IT IS SO ORDERED.

Dated: April 12, 2024

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE